

§ 115.113

contractor is complying with these standards.

(c) To the extent an agency contracts for confinement of holding facility detainees, all rules in this subpart that apply to the agency shall apply to the contractor, and all rules that apply to staff or employees shall apply to contractor staff.

§ 115.113 Detainee supervision and monitoring.

(a) The agency shall ensure that each facility maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse.

(b) The agency shall develop and document comprehensive detainee supervision guidelines to determine and meet each facility's detainee supervision needs, and shall review those supervision guidelines and their application at each facility at least annually.

(c) In determining adequate levels of detainee supervision and determining the need for video monitoring, agencies shall take into consideration the physical layout of each holding facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody.

§ 115.114 Juvenile and family detainees.

(a) Juveniles shall be detained in the least restrictive setting appropriate to the juvenile's age and special needs, provided that such setting is consistent with the need to protect the juvenile's well-being and that of others, as well as with any other laws, regulations, or legal requirements.

(b) Unaccompanied juveniles shall generally be held separately from adult detainees. The juvenile may temporarily remain with a non-parental adult family member where:

(1) The family relationship has been vetted to the extent feasible, and

(2) The agency determines that remaining with the non-parental adult

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family member is appropriate, under the totality of the circumstances.

§ 115.115 Limits to cross-gender viewing and searches.

(a) Searches may be necessary to ensure the safety of officers, civilians and detainees; to detect and secure evidence of criminal activity; and to promote security, safety, and related interests at DHS holding facilities.

(b) Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. An agency shall not conduct visual body cavity searches of juveniles and, instead, shall refer all such body cavity searches of juveniles to a medical practitioner.

(c) All strip searches and visual body cavity searches shall be documented.

(d) The agency shall implement policies and procedures that enable detainees to shower (where showers are available), perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement under medical supervision. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.

(e) The agency and facility shall not search or physically examine a detainee for the sole purpose of determining the detainee's gender. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records (if available), or, if necessary, learning that information as part of a broader medical examination conducted in private, by a medical practitioner.

(f) The agency shall train law enforcement staff in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and